IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

ARBITRATION PETITION NO.47 OF 2007

Maruti Contrywide Auto Financial Services Ltd. — Petitioners

vs.

Baljitsingh Jaswant Chawdhary — Respondent

Mr.Tushar Bhavsar i/b.M/s.Mohit Gadkari & Co. for the petitioners.

CORAM : ANOOP V. MOHTA,J.

DATED : 24th April, 2007

P.C.

The petitioners have filed the present petition under Section 9 of the Arbitration & Conciliation Act, 1996 (for short, "Arbitration Act") based on the agreement between the parties wherein there is a clause of arbitration.

2. Respondent has taken the vehicle on Hire-Purchase agreement. There are admittedly defaults in the payments.

3. Respondent has moved an application for loan in Bombay. The application was sanctioned in Bombay. The payment was disbursed in Bombay. The respondent resides in Bombay and the said vehicle is registered in Maharashtra. In view of this, this court has jurisdiction to entertain the petition under Section 9 of the Arbitration Act and pass order accordingly.

4. Considering the averments made in paragraphs 14 to 19 of the petition, I am of the view that the petitioners have made out a case for appointment of the

Court Receiver. The balance of convenience lies in favour of the petitioners. Considering the facts and circumstances of the case, it is just and convenient that Receiver takes the charge of the vehicle as prayed.

5. Inspite of service through courier, none appeared for the respondent. Affidavit of service dated 24.4.2007 is taken on record. Even, as per office record, the defendant refused to accept the letter/notice.

6. Taking all this into account, I am inclined to allow the petition in terms of prayer clause (a) on usual terms and conditions. Prayer (a) reads thus:

> (a) That this Hon'ble Court be pleased to appoint the Court Receiver, High Court, Bombay or some other fit and proper person be appointed as the Receiver of the said Vehicle i.e. Zen, Registration No.MH-12-MA-0092, more particularly described in the Schedule being Exhibit "F" to the petition in execution, with all powers under Order 40 Rule I of the C.P.C. 1908, including the powers to take possession and sell the said Vehicle.

7. Till then, prayer clause (b) also granted which is reproduced below:

> (b) That the Respondent, the Respondent's servants, agents and representatives or anybody claiming through or under the Respondent be restrained by an order of injunction of this Hon'ble Court from selling, transferring, disposing off, alienating, entering into any Agreement or arrangement,

encumbering or creating any third party right, title or interest, parting with or putting any other person in possession and enjoyment and/or parting with to any third party in any manner whatsoever, the said Vehicle i.e. Zen, Registration No.MH-12-MA-0092, more particularly described in the Schedule being Exhibit "F" to the petition.

7A. The petition is allowed accordingly.

8. No costs.

[ANOOP V. MOHTA,J.]